THE HON'BLE MR. JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.26591 of 2007

Date:13.12.2007

Between:
Dasi Koteswara Rao.

... Petitioner

AND
The District Collector, Krishna at
Machilipatnam and another.

... Respondents

Counsel for the petitioner: Sri C.Raghu.

Counsel for the respondents: Government Pleader for Land Acquisition.

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THE HONOURABLE MR.JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.26591 of 2007

ORDER:-

This Writ Petition is filed for a Writ of Mandamus to declare order dated 5-12-2007 passed by District Collector, Krishna (respondent No.1) under Section 5-A of the Land Acquisition Act, 1894 (for short "the Act"), whereby he rejected the objections submitted by the petitioner, as illegal, arbitrary and without jurisdiction.

The petitioner owns an extent of one acre of land in Survey Nos.70/3, 70/7 part and 70/8 part of Nibanpudi village, Pamarru Mandal, Krishna District. By notification dated 2-11-2007issued under Section 4(1) of the Act, the above-mentioned land of the petitioner is proposed to be acquired. Respondent No.2 issued notice dated 23-11-2007 calling upon the petitioner to submit his objections, if any, to the said proposal. The petitioner, accordingly, filed his objections, which were enquired into, after affording an opportunity of personal hearing, by respondent No.2. Based on the report submitted by respondent No.2, after enquiry, respondent No.1 passed the impugned order.

Heard Sri C.Raghu, learned counsel for the petitioner, and the learned Assistant Government Pleader for Land Acquisition.

Learned counsel for the petitioner advanced two contentions, viz., (1) under Section 5-A of the Act respondent No.1 has no jurisdiction to pass orders on the objections raised by the owner of the land and that it is only the appropriate

Government which is conferred with such power to decide on the objections; and (2) respondent No.1 has not given any reasons of his own in rejecting the objections of the petitioner, and that, therefore, the said order suffers from non-application of mind.

Section 3-A of the Act (which was inserted by way of amendment under Andhra Pradesh Act 22 of 1976 and brought into operation with effect from 12-9-1972) reads as under:

> "**3A. Delegation of functions:** The State Government may, by notification in the Andhra Pradesh Gazette, direct that any power conferred or any duty imposed on them by this Act, shall in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised or discharged by the District Collector".

As regards the first contention of the learned counsel for the petitioner, the learned Government Pleader for Land Acquisition invited my attention to G.O.Ms.No.1378, Revenue (k) dated 15-10-1975, which reads as under:

> "In exercise of the powers conferred by Section 3-A of the Land Acquisition Act, 1894 (Central Act 1 of 1894), the Governor of Andhra Pradesh hereby authorizes all the District Collectors to exercise the powers vested in the State Government under Section 5-A and sub-section (4) of Section 17 of the said Act for the purpose of acquisition of lands for land for construction, extension or improvement of any dwelling house for the poor".

He further submitted that the said G.O. was published in A.P. Gazette Part-I (Extraordinary) dated 16-10-1975.

In view of the above-reproduced Government Order, I see no merit in the first contention of the learned counsel for the

petitioner.

With regard to the other contention, viz., that respondent No.1 has not given independent reasons, a perusal of order dated 5-12-2007 impugned in the Writ Petition shows that respondent No.2 held personal enquiry and submitted her report by giving detailed reasons with regard to each of the objections raised by the petitioner. Respondent No.1, having extracted the objections raised by the petitioner before respondent No.2 and the findings of the latter, stated in his order thus:

> "In view of the circumstances stated above, it is hereby informed to the land owner Sri Dasi Koteswara Rao S/o. Mohana Rao that their request for withdrawal of their land an extent of Acs.1.00 cts., from the proposed land in Nibhanupudi village of Pamarru Mandal cannot be considered, as there are no merits in their objections".

Respondent No.1, in the course of discharging his statutory function of dealing with the objections under Section 5-A of the Act, passed the above order. It is necessary to note that the power of holding enquiry was delegated to respondent No.2. She submitted her detailed report, which was considered by respondent No.1 and since he was satisfied with the findings of respondent No.2, he declined to accept the request of the petitioner to withdraw his land from the proposed acquisition. In my considered view, since respondent No.2 has already given detailed remarks on the objections raised by the petitioner, there is no need for respondent No.1 to give separate reasons, when he is in full agreement with the findings given by respondent No.2. The requirement of giving reasons perhaps

would have been necessitated if respondent No.1 is not in agreement with any of the findings given by respondent No.2.

In my opinion, the analogy that the superior authority, while confirming the order of lower authority, need not give elaborate reasons of it's own aptly applies to this case where the authority delegated with the power, enquired into the objections and sent remarks and respondent No.1, who is competent to take a final decision adopted the same as reasons to reject the objections of the petitioner. In this view of the matter, the contention of the learned counsel deserves to be rejected.

Learned counsel for the petitioner has not advanced any other argument.

For the aforementioned reasons, the Writ Petition is dismissed.

C.V.NAGARJUNA REDDY,J
13-12-2007
MNR